

ARTICLE 1

GENERAL PROVISIONS

1.1 TITLE

This Resolution shall be known, referred to, and cited as the Zoning Resolution of Kearney County in the State of Nebraska.

1.2 JURISDICTION

The provisions of this Resolution shall apply within the planning jurisdiction of Kearney County and the Villages of Norman and Heartwell as established on the maps entitled “The Official Zoning Maps of Kearney County, and Norman and Heartwell, Nebraska.” The planning jurisdiction for Kearney County includes the rural and unincorporated areas of the County. The planning jurisdiction for the two Villages include the area within the corporate limits and an area one-mile adjacent the corporate limits.

1.3 PURPOSE

In pursuance of the authority conferred by Section 23-114.03-114.05 and 23-164 to 174.10 of Nebraska Revised Statutes as amended, and other applicable laws, this resolution is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of Kearney County and the Villages of Norman and Heartwell and for implementing the Comprehensive Plan of the County.

ARTICLE 2

APPLICATION OF REGULATIONS

2.1 GENERAL

The zoning regulations set forth by this resolution within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

2.2 ZONING AFFECTS EVERY BUILDING AND USE

Excepting non-conforming lot sizes, structures and usages, as set forth in Sections 2.5, 2.51, 2.52 and 2.53 of these regulations, after effective date of this Regulation or any amendments thereto, no building, construction, or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, moved or structurally altered except in conformity with all of the zoning regulations herein specified for the district in which it is located.

2.3 YARD AND LOT REDUCTION PROHIBITED

No yard or lot existing at the time of passage of this resolution shall be reduced by private action in dimension or area below the minimum requirements set herein. Yards or lots created after the effective date of this resolution shall meet the minimum requirements established by this resolution.

2.4 MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this resolution shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Where applicable, Municipal, State or Federal standards which are more restrictive than those contained herein, the more restrictive standards shall apply.

2.5 NONCONFORMITIES

Nonconformities; Intent. Nonconformities are of three types: nonconforming lots of record, nonconforming structures, and nonconforming uses.

2.51 NONCONFORMING LOTS OF RECORD: The Zoning Administrator may issue a Zoning Permit for any nonconforming lot of record provided that:

Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited, and

Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the zoning regulation, and

Said lot can meet all yard regulations for the district in which it is located.

2.52 NONCONFORMING STRUCTURES

Authority to Continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the use regulations and/or the applicable yard and height regulations may be continued, so long as it remains otherwise lawful.

Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired, remodeled or rebuilt; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.

Damage or Destruction: In the event any nonconforming nonresidential structure is damaged or destroyed, by any means, to the extent of more than 60 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 60 percent or less, no repairs or restoration shall be made unless a Zoning Permit is obtained within six months, and restoration is actually begun one year after the date of such partial destruction and is diligently pursued to completion.

Moving: No nonconforming structure shall be moved in whole or in part of any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

2.53 NONCONFORMING USES

Authority to Continue: Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful and may be expanded through a special use permit.

Ordinary Repair and Maintenance:

1. Normal maintenance and incidental repair, or replacement, installation or relocation or nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, water and/or waste disposal systems, may be performed on any structure or system that is devoted in whole or in part to a nonconforming use.
2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety who declares such structure to be unsafe and orders its restorations to a safe condition.
Extension: A nonconforming use shall not be extended, enlarged, or increased in intensity. Any nonconforming use may be extended throughout any portions of a Building which was manifestly arranged or designed for such use at the time of adoption or amendment of these Regulations, but no use shall be extended to occupy any land outside such building. Any nonconforming use of land may not be increased in size beyond the area occupied by such nonconforming use on the effective date of these Regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming) except those that are allowed through a special use permit.

Enlargement: No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.

Damage or Destruction: In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged to the extent of more than sixty (60) percent of its reasonable replacement value, the property shall conform to the zone in which it is located.

Moving: No structure that is devoted in whole or in part to a nonconforming use and nonconforming use of land shall be moved in whole or in part for any distance whatsoever, to any location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

Change in use: If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the governing body after receiving a recommendation from the Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. More appropriate shall mean creating less traffic, noise, glare, odor or other characteristics of the proposed use. In permitting such change, the governing body may require appropriate conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.

Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned, for a period of thirty-six (36) consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

Nonconforming Accessory Uses: No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

ARTICLE 3

GENERAL DEFINITIONS

3.1 GENERAL PROVISIONS

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this resolution.

3.11 TENSE: Words used in the present tense include the future tense.

3.12 NUMBER: Words used in the singular include the plural, and words used in the plural include the singular.

3.13 SHALL AND MAY: The word “shall” is mandatory; the word “may” is permissive.

3.14 HEADINGS: In the event that there is any conflict or inconsistency between the heading of an article, section or paragraph of this Resolution and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

3.2 GENERAL TERMINOLOGY

The word “County” shall mean the County of Kearney, Nebraska. The words “County Board” shall mean the Kearney County Board of Supervisors. The word “Village” shall mean the Village of Norman and/or Village of Heartwell. The words “Village Board” shall mean the Village Board of Trustees, for either/or both the Villages of Norman and Heartwell. The words “Planning Commission” shall mean the Planning Commission of Kearney County duly appointed and represented by the governing body of Kearney County and the Villages of Norman and Heartwell.

Words or terms not herein defined shall have their ordinary meaning in relation to the context.

3.3 DEFINITION

For the purpose of this resolution certain words and terms used herein are defined as follows:

3.31 ACCESSORY USE OF BUILDING: A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, and residential, agricultural and recreation storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.

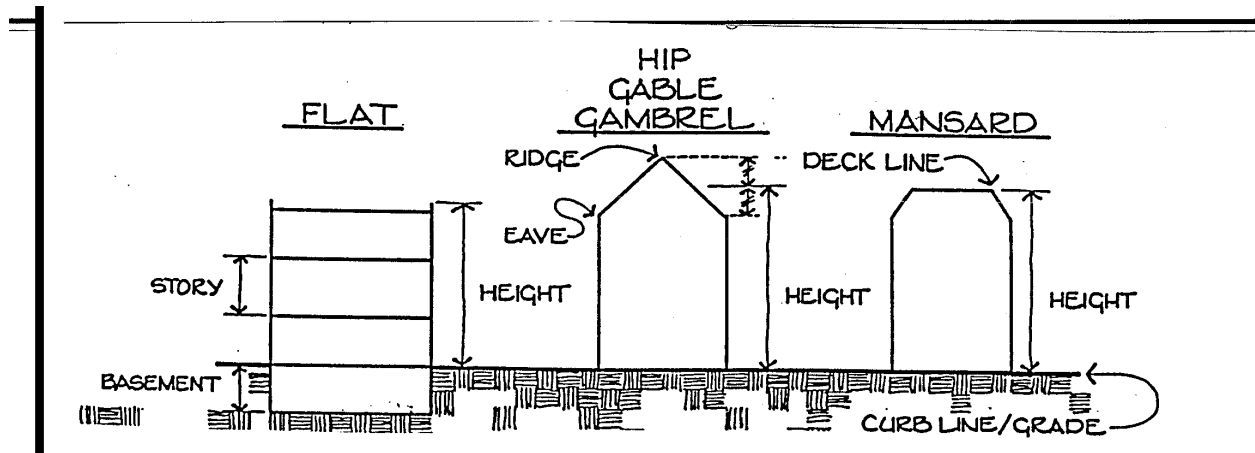
3.32 AGRICULTURAL FARM OR OPERATION: Farm or farm operation shall mean any tract of land over 20 acres in area used for or devoted to the commercial production of farm products.

3.33 BUILDABLE AREA: The portion of a lot remaining after required yards have been provided.

3.34 BUILDING: An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. “Building” includes “structure.”

3.35 BUILDING HEIGHT: The vertical distance to the highest point of the roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs, measured from the curb level if the building is not more than ten (10) feet from the

front line or from the grade in all other cases.



Source: A Survey of Zoning Definitions, (American Planning Association, 1989).

3.36 CAMP GROUNDS: Any premises where two (2) or more camping units are parked/placed for camping purposes, or any premises used or set apart for supplying to the public, camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures used or intended for use or intended wholly or in part for the accommodation of transient campers.

3.37 COMMERCIAL USE: An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.

3.38 DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes.

3.39 DWELLING, MULTIFAMILY: A building or portion thereof used for occupancy by two or more families living independently of each other and containing two or more dwelling units.

3.40 DWELLING, SINGLE FAMILY: A dwelling having accommodations for an occupied by one family.

3.41 EASEMENT: A grant by the property owner to the public, a corporation or persons for the use of a tract of land for a specific purpose or purposes.

3.42 FARM RESIDENCE: Residential dwellings located on a farm including mobile homes appurtenant to agricultural operations including the living quarters for persons employed on the premises.

3.43 FLOOD PLAIN: Those lands within the zoning jurisdictions of Kearney County and/or the Villages of Norman and Heartwell which are subject to a one (1) percent or greater chance of flooding in any given year. The regulatory flood plain for this Resolution shall be based on the official Flood Hazard Boundary Map or Flood Insurance administration, U.S. Department of Housing and Urban Development and any revision thereto. Copies of said map shall be

on file in the Office of the Kearney County Assessor.

3.44 HOME OCCUPATION: An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

3.45 LIVESTOCK CONFINEMENT FACILITIES/ OPERATIONS: Shall mean the raising, feeding or management of animals excluding cattle in calving operations for less than ninety days per year, in building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces that are normally not used for raising crops or vegetation or grazing animals, which may exceed any combination of 500 animal units from the following:

Animal Units Equal:

1. (1.0 x ____ number of head) Slaughter and Feeder Cattle
2. (1.2 x ____ number of head) Cow/Calf Pairs
3. (1.4 x ____ number of head) Mature Dairy Cattle
4. (0.4 x ____ number of head) Swine, 55lbs. and over
5. (0.04x ____ number of head) Weaned Pigs, less than 55lbs.
6. (0.1 x ____ number of head) Sheep
7. (2.0 x ____ number of head) Horses
8. (0.01x ____ number of head) Chickens
9. (0.02x ____ number of head) Turkeys
10. (0.2 x ____ number of head) Ducks

For Immature Dairy Cattle, or those species not listed, number of animal units shall be calculated as the average weight of animals divided by 1,000 lbs., multiplied by the number of animals. Two or more livestock operations under common ownership shall be deemed to be a single livestock facility/operation if they are adjacent to each other or if they utilize a common area or system of disposal of livestock waste.

3.46 LANDFILL: A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.

3.47 LOT: A parcel of land occupied or intended for occupation by a use permitted in this resolution and fronting upon a street or road.

3.48 LOT, CORNER: A lot abutting two or more streets or roads at their intersection.

3.49 LOT DEPTH: The average horizontal distance between the front and rear lot lines.

3.50 LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street or road.

3.51 LOT OF RECORD: A lot of which is part of a sub-division recorded in the Office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been recorded.

3.52 LOT WIDTH: The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

3.53 MANUFACTURED HOME: A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any

wheels or axles, and which bears a label certifying that it was built to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.

3.54 **MOBILE HOME:** A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more that thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or these manufactured in sections or parts away from the site and transported thereto for assembly.

3.55 **MOBILE HOME PARK:** Any area of land which one (1) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

3.56 **MODULAR HOME:** Any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services System as established in Section 71-1557 of the Nebraska revised Statutes.

3.57 **NONCONFORMING LOT OF RECORD:** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to August 21, 2001, and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

3.58 **NONCONFORMING STRUCTURE:** An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.

3.59 **NONCONFORMING USE:** An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the zoning district in which it is located.

3.60 **PARCEL:** A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

3.61 **PARKING SPACE, OFF-STREET:** An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or road and permitting ingress and egress of an automobile.

3.62 **RECYCLING CENTER:** A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum and paper, and similar household wastes; no hazardous material as defined by State and Federal law is accepted; there is not wrecking or dismantling of salvage material and no salvage material is held outside a building.

3.63 **RECYCLING COLLECTION POINT:** A collection point for small refuse items, such as bottles, cans and newspapers, located either in a container or small structure.

3.64 SALVAGE OR JUNK YARD: A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

3.65 SPECIAL USE PERMIT: A written permit issued with authorization of the County or Village Board. The special permit provides permission under specific conditions to make certain special uses of land in certain zoning districts as stipulated under permitted special uses in each of the district zoning regulations.

3.66 STREET: All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street purposes.

3.67 STREET, CENTER LINE: A line midway between street lines.

3.68 STREET LINE: A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.

3.69 STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures and street signs.

3.70 STRUCTURAL ALTERATIONS: Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders or any structural change in the roof.

3.71 TOWNHOUSE: One of a group or row of not less than three (3) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

3.72 VARIANCE: A variance is a relaxation of the terms of the zoning resolution where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the resolution would result in unnecessary and undue hardship.

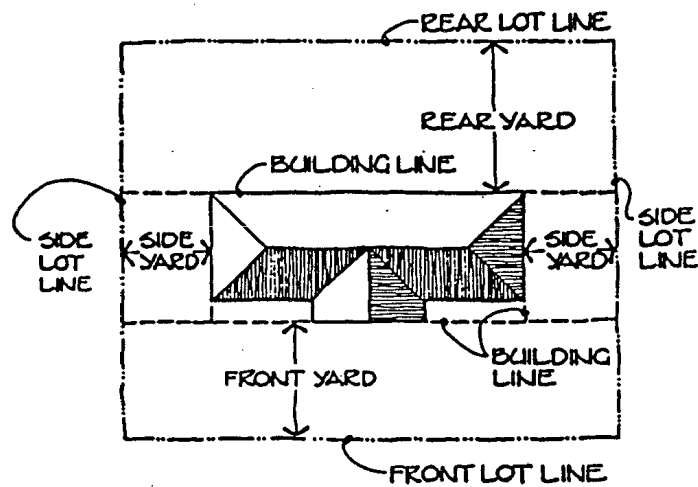
3.73 YARD: A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yards accessories, ornaments, and furniture may be permitted in any yard subject to the district regulations.

3.74 YARD, FRONT: A yard extending from the front lot line adjoining a public street to the front of the building between side lot lines.

3.75 YARD, REAR: A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the main building.

3.76 YARD, REQUIRED: The required minimum open space between the property line and the building line. The required yard shall contain no building or structure other than the projection of the usual steps, or open porches, or as otherwise provided in this resolution.

3.77 YARD, SIDE: A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the main building.



Source: A Survey of Zoning Definitions, (American Planning Association, 1989)

3.78 ZONING ADMINISTRATOR: The person duly designated by the County governing body to enforce these regulations.

3.79 ZONING DISTRICT: The term "zoning map" means a map or maps officially enacted by the County Board and Village Board, as part of this chapter showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the County Zoning Administrator, as an official record of the County and the Village.

ARTICLE 4

ESTABLISHMENT AND DESIGNATION OF DISTRICTS

4.1 ZONING AND PLANNING COMMISSION RECOMMENDATIONS

It shall be a purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the County Board or Village Board shall not hold its public hearings or take action until it has received the final report of the Planning Commission.

4.2 DISTRICTS CREATED

For the purpose of this resolution, there are hereby created zoning districts for Kearney County and the Villages of Norman and Heartwell, as named and described in Article 5 of this Resolution.

1. AG-1 - Agriculture District
2. RC - Rural Conservation District
3. AGR - Agricultural Residential District
4. R-1 - Single Family
5. C - Commercial District
6. I - Industrial District

4.3 OFFICIAL ZONING MAP

1. The boundaries of the district are shown upon maps, which is made a part hereof by reference, which map(s) are designated as the Kearney County, Village of Norman and Village of Heartwell Zoning Maps, dated August 21, 2001 and signed by the Chairperson of each governing entity the County Board and attested by the Clerk of each governing entity and hereinafter referred to as the "Official Zoning Map."
2. The signed copy of the Zoning Map(s) containing the zoning districts designated at the time of adoption of this resolution shall be maintained in the office of the County Zoning Administrator for the use and benefit of the public.
3. If in accordance with the provisions of this resolution, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map(s), such changes shall be entered on the appropriate part of the Official Zoning Map(s) promptly after the amendment has been approved by the governing body with an entry on the Official Zoning Map(s) as follows:

"On (date), by official action of the County or Village, the following change was made in the Official Zoning Map(s) (brief description of the nature of the change), "which entry shall be signed by the Chairperson and attested by the Clerk of the governing entity." No amendment to this resolution which involves matter portrayed on the Official Zoning Map(s) shall become effective until after such change and entry have been made on said map(s).

4. No changes of any nature shall be made in the Official Zoning Map(s) or matter shown thereon except in conformity with the procedures set forth in this resolution.
5. In the event that the Official Zoning Map(s) become damaged, destroyed, lost or difficult to interpret, the County or Villages may, by resolution, adopt a new Official Zoning Map(s) which shall supersede the prior Official Zoning Map(s).

The new Official Zoning Map(s) may correct drafting or other errors or omissions in the prior Official Zoning Map(s), but no such correction shall have the effect of amending the original Official Zoning Map(s) or any subsequent amendment thereof.

4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following village limits shall be construed as following such village limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the railroad right-of-way;
5. Boundaries indicated as parallel to or extension of features indicated in subsection 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map(s) shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map(s), or in other circumstances not covered by subsection 1 through 5 above, the Board of Zoning Adjustment shall interpret the district boundaries.
7. Where a district boundary line divides a lot which was in single ownership at the time of passage of this resolution the Board of Zoning Adjustment may permit, as an exception, the extension of the regulations for either portion of the lot not to exceed one hundred and fifty (150) feet beyond the district line into the remaining portion of the lot.

ARTICLE 5

ZONING DISTRICTS

5.1 AG-1 AGRICULTURE DISTRICT

5.11 INTENT: This district is designated for general agriculture use and is intended to preserve and protect agriculture production from encroachment by incompatible uses.

5.12 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/ operations as defined in Section 3.45.
2. Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems;
3. Bulk grain and produce storage, excluding commercial warehouses;
4. Irrigation, flood, erosion and sediment control projects;
5. Non-farm single family, farm and ranch dwellings on an improved all weather county road (above minimum maintenance road), including one additional farm/ranch single/two family dwelling for the purpose of housing relatives or permanent agriculture workers. In addition, single family dwellings must be located minimum distances from a dry-lot livestock confinement facility/operation in conformance with Section 6.4 and one-half (1/2) mile from a facility with a lagoon waste system, not of the same property;
6. Greenhouses and garden centers;
7. Bed and breakfast; and
8. Churches, places of worship and cemeteries.

5.13 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses;
2. Home occupations in accordance with Article 8; and
3. Roadside stands for the temporary sale of produce.

5.14 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AG-1 Agriculture District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Airports and heliports including crop dusting strips;
2. Sewage treatment plants for primary and secondary treatment; public and private sanitary landfills; gravel plants and asphalt or concrete batch plants;
3. Agriculture service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis; agricultural grain product milling and processing; commercial grain warehouses, establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, harvesting and plowing; farm equipment services and repair;
4. Broadcast towers and stations and wind generation systems, including Amateur Radio or land mobile communication towers in accordance with the Airport Zoning Regulations Article 14 of this document.
5. Public and private recreational uses, including parks and playgrounds, campgrounds and riding stables;
6. Auction/sale barns and yards;
7. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
8. Salvage or junk yards in accordance with Section 6.3;
9. Mineral extraction, which shall include the following: oil wells, sand, dirt and/or gravel extraction and quarries;
10. Pre-school and child care centers;
11. Private elementary and high schools;
12. Expansion of existing or development of new livestock confinement facilities/operations as defined in Section 3.45 and in accordance with Section 6.4;
13. Veterinary facilities;
14. Dog breeding establishments and kennels;
15. Manufacturing, Commercial and/or Industrial operations;
16. Hospitals, penal institutions and sanitariums;
17. Nursing and care homes;
18. Public and private, including non-profit, charitable institutions; and

19. Recreational motel-lodging;

20. Disposal of paunch animal waste.

5.15 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specially permitted or not permissible as special uses shall be prohibited from the AG-1 Agriculture District.

5.16 MINIMUM LOT REQUIREMENTS

All improved area or uses, other than general farming, ranching, pasturing, etc, shall be adjacent to an improved all weather county road (above minimum maintenance road).

Single Family Dwellings:

Lot Size: 5 acres, with the placement of a maximum of four single family dwellings per quarter section (160 acres), adjacent to an improved all weather county road (above minimum maintenance road).

5.17 MINIMUM YARD REQUIREMENTS

1. No structure shall be placed within the high water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM) dated _____ as Special Flood Hazard Areas unless the base or footings to such structure are at least one (1) foot above such high water mark.

2. Yard Requirements:

Front Yard: There shall be a minimum front yard of not less than a depth of twenty-five (25) feet measured from the road right-of-way line in conformance with Section 8.7 and 8.8.

Rear Yard: No limitations; unless abutting a R-1 Residential District then the minimum rear yard shall be fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be twenty-five (25) feet.

Side Yard: No limitations; unless abutting a R-1 Residential District then the minimum side yard shall be ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum side yard shall be twenty-five (25) feet.

5.18 MAXIMUM HEIGHT: In accordance with Article 14.

5.19 PARKING REQUIREMENTS: See Article 7.

5.110 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Articles 8.7 and 8.8.

5.2 RC RURAL CONSERVATION DISTRICT

5.21 INTENT: This district is intended for those areas which, because of limiting environmental characteristics such as scenic status, excessive slope, soils conditions, high water table, or other factors, require the regulation of development in keeping with the conditions imposed by the natural environment.

5.22 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Non-farm, ranch and farm dwellings on an improved all weather county road (above minimum maintenance road), and one additional on farm/ranch single/two family dwelling for the purpose of housing relatives or permanent agriculture workers. In addition, single family dwellings must be located minimum distances from a dry-lot livestock confinement facility/operation in conformance with Section 6.4 and one-half (1/2) mile from a facility with a lagoon waste system, not of the same property.
2. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations as defined in Section 3.45.
3. Flood, erosion and sediment control projects

5.23 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.
2. Home occupations in accordance with Article 8; and
3. Roadside stands for temporary sale of produce.

5.24 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the RC Rural Conservation District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Sewage disposal and water systems;
2. Public and private uses including parks, playgrounds, golf courses, recreation uses, riding stables, public utilities, and utility distribution system;
3. Bed and breakfast establishments; and
4. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries.
5. Expansion of existing or development of new livestock confinement facilities/operations as defined in Section 3.45 and in accordance with Section 6.4;
6. Broadcast towers and stations and wind generation systems, including Amateur Radio or land mobile communication towers in accordance with the Airport Zoning Regulations Article 14

of this document.

5.25 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specially permitted or not permissible as special uses shall be prohibited from the RC Rural Conservation District.

5.26 SPECIAL REGULATION: Provisions must be made for disposal of wastes in accordance with local and state regulations.

5.27 MINIMUM LOT REQUIREMENTS:

All improved area or uses, other than general farming, ranching, pasturing, etc, shall be adjacent to an improved all weather county road (above minimum maintenance road).

Single Family Dwellings:

Lot Size: 5 acres, with the placement of a maximum of four (4) single family dwellings per quarter section (160 acres), adjacent to an improved all weather county road (above minimum maintenance road).

5.28 MINIMUM YARD REQUIREMENTS:

1. No structure shall be placed within the high water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM) dated _____ as Special Flood Hazard Areas unless the base or footings to such structure are at least one (1) foot above such high water mark.
2. Yard requirements are as follows:

Front Yard: There shall be a minimum front yard of not less than a depth of twenty-five (25) feet measured from the right-of-way line in conformance with Section 8.7 and 8.8.

Rear Yard: No limitations; unless abutting a R-1 Residential District then the minimum rear yard shall be fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be twenty-five (25) feet.

Side Yard: No limitations; unless abutting a R-1 Residential District then the minimum side yard shall be ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum side yard shall be twenty-five (25) feet.

5.29 MAXIMUM HEIGHT: In accordance with Article 14.

5.210 PARKING REQUIREMENTS: See Article 7.

5.211 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Articles 8.7 and 8.8.

5.3 AGR AGRICULTURAL RESIDENTIAL DISTRICT

5.31 INTENT: This district is intended to provide for low-density, acreage residential development in selected areas in close proximity to the communities of Kearney County, or in rural areas with reasonable access to major rural roads. Generally, these districts are located near urban and built-up areas within reasonable reach of fire protection and hard surfaced roads. This includes Keene, Lowell, Newark, El Charman, McConnell, and Summerhaven.

5.32 PERMITTED PRINCIPLES USES AND STRUCTURES: The following shall be permitted as uses by right:

1. General farming, including hobby farming or animal raising, excluding any expansion of existing or development of livestock confinement facilities/operations as defined in Section 3.45.
2. Single family, ranch and farm dwellings on an improved all weather county road (above minimum maintenance road), including ranch and farm dwellings; and one additional on farm/ranch single/two family dwellings for the purpose of housing relatives or permanent agriculture workers, in addition single family dwellings must be located minimum distances from a dry-lot livestock confinement facility/operation in conformance with Section 6.4 and one-half (1/2) mile from a facility with a lagoon waste system, not of the same property;
3. Irrigation and flood control projects;
4. Public parks and recreational areas;
5. Community buildings and/or facilities owned and/or occupied by public agencies;
6. Public and/or private schools; and
7. Churches, places of worship, and cemeteries.

5.33 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures;
2. Home occupations in conformance with Article 8.2; and
3. Roadside stands for sale of agricultural produce.

5.33 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;
2. Cemeteries, crematories, mausoleums and columbarium;
3. Pre-school and child care centers;
4. Radio and television towers and transmitters;
5. Camp grounds;
6. Wind generating systems;
7. Commercial kennels;
8. Public and private charitable institutions;
9. Greenhouses and nurseries;
10. Animal clinics, animal hospitals and veterinarian services;
11. Mobile home parks.
12. Rural subdivisions with individual parcels may be reduced to one acre if they are in accordance with the Nebraska Environmental Quality - Title 124 and Department of Health and Human Services Regulations.
13. Manufacturing, Commercial and/or Industrial operations.

5.35 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from AGR Agricultural Residential District.

5.36 MINIMUM LOT REQUIREMENTS:

All improved uses, other than general farming, ranching, pasturing, etc, shall be adjacent to an improved all weather county road (above minimum maintenance road).

i. Single family dwellings:

Lot Size: 5 acres. Dwellings shall be adjacent to an improved all weather county road (above minimum maintenance road).

5.37 MINIMUM YARD REQUIREMENTS:

1. No structure shall be placed within the high water mark of waterways in designated district, as identified by the Flood Insurance Rate Map (FIRM) dated as Special Flood Hazard Areas unless the base or footings to such structure are at least one (1) foot above such high water mark.

2. Yard requirements:

Front Yard: There shall be a minimum front yard of not less than a depth of twenty-five (25) feet measured from the road right-of-way line in conformance of Sections 8.7 and 8.8.

Rear Yard: There shall be a minimum rear yard of fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be twenty-five (25) feet.

Side Yard: There shall be a minimum side yard of ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum side yard shall be twenty-five (25) feet.

5.38 MAXIMUM HEIGHT: In accordance with Article 14.

5.39 PARKING REGULATIONS: Parking shall be in conformance with the provisions of Article 7 of these regulations.

5.40 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Articles 8.7 and 8.8.

5.41 INTENT: This district is intended for use in un-incorporated communities and the Villages of Norman and Heartwell to provide for low density residential uses consisting of single family and two-family detached dwelling units and accessory structures.

5.42 PERMITTED PRINCIPLE USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Single family dwellings;
2. Manufactured homes which comply with the provisions of Article 8;
3. Mobile homes;
4. Two-family dwellings;
5. Nursery, primary and secondary education;
6. Public parks, buildings and grounds;
7. Child care homes;
8. Public uses: Including but not limited to public parks, playgrounds, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems; and
9. Places of worship such as churches and synagogues.

5.43 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Home occupations in accordance with Article 8.2; and
2. Accessory uses and structures normally appurtenant to permitted uses and structures.

5.44 PERMITTED SPECIAL USES: A building or premises may be used for the following purpose in the R-1 Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Medical clinics;
2. Mortuaries;
3. Child care center;
4. Museum and art galleries;
5. Nursing homes;
6. Public and private golf courses;
7. Retirement homes;
8. Bed and breakfast homes;
9. Mobile home parks; and
10. Multifamily dwellings.

5.45 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-1 Residential District.

5.46 HEIGHT AND AREA REGULATIONS: The minimum area regulations shall be as follows:

1. General Requirements:

	<u>Lot Area (Sq. Ft.)</u>	<u>Lot Width</u>	<u>Required Front Yard</u>	<u>Required Side Yard</u>	<u>Required Rear Yard</u>
Single Family Dwelling	7,000	50'	25'	7'	20'
Two Family Dwelling	3,750 per family	25' per family	25'	7', 0' of party wall	20'
Other Permitted Uses	10,000	75'	25'	7'	20'

* Unless more regulated by state or federal authorities Height Regulations in accordance with Article 14.

2. There shall be a required front yard setback of twenty-five (25) feet on each street side of a corner lot;
3. Building on corner lots shall provide front yard setbacks of twenty-five (25) feet on both street frontages; and designate remaining yards as one rear and one side yard; and
4. The side yard setback between individual units of two-family dwellings may be reduced to zero, if a one (1) hour fire rated constructed common wall between units starting at the basement level and continuing through to the roof line is maintained.

5.47 PARKING REGULATIONS: Parking within the R-1 Residential Ordinance District shall be in conformance with the provisions of Article 7 of this ordinance.

5.48 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Articles 8.7 and 8.8.

5.5 C - COMMERCIAL DISTRICT

5.51 INTENT: The C Commercial District is intended for the purpose of providing limited commercial services. Off-street parking is required in order to reduce adverse effects on adjacent properties.

5.52 PERMITTED PRINCIPLE USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Automobile wash facilities;
2. Churches and other religious institutions;
3. Construction sales and services;
4. Convenience store or filling station;
5. Detached banking facilities (ATM);
6. Electric and telephone substations;
7. Farm implement sales and services;
8. Garden centers and nurseries;
9. Irrigation equipment sales and services;
10. Mini storage facilities;
11. Motels, including accessory service uses, such as swimming pools, liquor stores and restaurants;
12. Restaurants and cafes;
13. Service stations;
14. Stores or shops for sale of goods or services at retail;
15. Transportation warehousing;
16. Trucks and freight terminals;
17. Utilities, including shops and offices; and
18. Medical clinics.

5.53 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.

5.54 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the C Commercial District if a special use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Private clubs and lodges;
2. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals;
3. Radio studios, transmitters and antenna;
4. Recycling centers;
5. Single Family Homes; and
6. Campgrounds.

6.55 SCREENING REQUIREMENTS:

1. Where a site adjoins a R-1 Residential District, a solid wall or fence or compact evergreen hedge six (6) feet in height may be required on the property line common to such districts, except in a required front yard.
2. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

5.56 PROHIBITED USES:

1. All other uses and structures which are not specifically permitted or permissible as special uses shall be prohibited from the C Commercial District.

5.57 HEIGHT AND AREAS REGULATIONS: The minimum area regulations shall be as follows:

General Requirements:

	<u>Lot Area</u> <u>(Sq. Ft.)</u>	<u>Lot</u> <u>Width</u>	<u>Required Front</u> <u>Yard</u>	<u>Required</u> <u>Side Yard</u>	<u>Required</u> <u>Rear Yard</u>
Permitted Uses	7,500	50'	75'*	7', 15' when abutting a residential property	20'

* Measured from the road right-of-way line.

** Unless more regulated by state or federal authorities. Height Regulations in accordance with Article 14.

5.58 PARKING REGULATIONS: Parking within the C Commercial District shall be in conformance with the provisions of Article 7 of these regulations.

5.59 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Articles 8.7 and 8.8.

5.6 I – Industrial

5.61 INTENT: This district is designed to provide for a wide range of light industrial and related uses.

5.62 PERMITTED PRINCIPAL USES AND STRUCTURES:

1. Animal hospitals;
2. Automobile sales and services;
3. Automotive wash facilities;
4. Bottling works;
5. Building material sales and ready-mix concrete plants;
6. Carpenter, cabinet, plumbing or sheet metal shops;
7. Carpet and rug cleaning and repair services;
8. Disinfecting and exterminating services;
9. Dry cleaning, laundering and dyeing services;
10. Dyeing and finishing of textiles;
11. Educational and scientific research services;
12. Electrical sales and services;
13. Equipment rental and leasing services;
14. Farm machinery and equipment - retail;
15. Farm supplies - retail;
16. Feeds, grains and hay - retail;
17. Food lockers and storage services;
18. Freight forwarding services;
19. Furniture repair and reupholster services;
20. Fur trading services;
21. Garden centers and nurseries;
22. Gas utility maintenance yard;
23. Manufacturing operation;
24. Landscape sales and services;
25. Mobile and modular home sales and manufacturing;
26. Newspaper publishing plants and commercial printing;
27. Photoengraving;
28. Photo finishing services;
29. Public utility and public service uses;
30. Radios, televisions, phonographs, recorders, tape players and other similar devices repair services;
31. Service stations;
32. Stores or shops for the sale of industry goods at retail;
33. Telephone services;
34. Transportation warehousing;
35. Truck wash services;
36. Veterinarian services;
37. Warehousing and storage except for products of a highly explosive, combustible or volatile nature;
38. Wholesale establishments except those which handle products of a highly explosive, combustible or volatile nature; and
39. Mini-warehouse

5.63 PERMITTED ACCESSORY USES: Accessory uses and structures normally appurtenant to permitted uses and structures.

5.64 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the I Industrial District if a special permit for such use has been obtained in accordance with Article 6 of this Resolution.

1.Salvage or junk yard in accordance with Section 6.3;

2.Recycling center;

3.Mineral extraction, which shall include the following:

oil wells, sand and gravel extraction and strip mine operations and quarries; and

4.Airport.

5.65 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the I Industrial District.

5.66 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

1. General Requirements:

	<u>Lot Area (Sq. Ft.)</u>	<u>Lot Width</u>	<u>Required Front Yard</u>	<u>Required Side Yard</u>	<u>Required Rear Yard</u>	<u>Height</u>
Permitted Uses				0', 15' when abutting a residential property		
	None	100'	75'		15'	None*

* Unless more regulated by state or federal authorities.

5.67 PARKING REGULATIONS: Parking within the I Industrial District shall be in conformance with the provisions of Article 7 of this Resolution.

5.68 FENCES, WALLS, HEDGES AND SHELTER BELTS: See Articles 8.7 and 8.8.

5.69 HEIGHT REGULATIONS IN ACCORDANCE WITH ARTICLE 14.

ARTICLE 6
SPECIAL USE PERMIT

6.1 GENERAL

The County or Village may authorize by special permit after public hearing, any of the buildings or uses designated in this resolution as permitted special uses.

6.2 PROCEDURES

Such application shall be in writing, filed in the Office of the County or Village Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the County or Village. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the County or Village Board, within thirty (30) days. Upon hearing, the County or Village Board may allow or deny the application in whole or in part, or prescribe conditions for such use of the property. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the County or Village Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the County or Village and in the local newspaper of any county/village/city which has territory within three miles of the property affected by such action of the County or Village Board, one time at least ten (10) days prior to such hearing. (Ref. 23-164 R.S. Neb.). Appeals of any County Board decision must be made within 15 days after the decision.

In addition to the publication of the notice herein prescribed, a notice of the purpose, time, and place of the hearing shall be given in writing to the Chairperson of the County or Village Board, or Planning Commission which has jurisdiction over land within three miles of the property affected by such action. In the absence of a Planning Commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three miles of the property affected by such action. A written notice of such hearing shall be distributed to record owners of property located within one hundred (100) feet of the property line of the property requesting the special use permit in incorporated areas and within one (1) mile of the property line of the property requesting the special use permit in unincorporated areas. Addresses will be obtained from the County Assessors Office.

Except as otherwise provided herein, no special use permit shall be granted by the County or Village Board, without an affirmative vote of a majority of all members of the County or Village Board and providing the proposed use is found to comply with the following guidelines:

1. Not be a matter which should require re-zoning of the property, and
2. Be compatible with the stated intended and permitted uses of the district, and
3. Not change the character of the district, and
4. Be in accordance with the Comprehensive Plan.

In case of protest against such special use permit, signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent to the parcel on the side and in the rear thereof extending one hundred (100) feet, therefrom, and of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such special use permit shall not become effective except by the favorable vote of two-thirds of all members of the governing Board.

6.3 SALVAGE OR JUNK YARD

Salvage or junk yard operations and related facilities shall only be allowed by special permit in the AG-1 and I zoning districts under the following conditions:

1. Located on a tract of land at least one (1) mile from a residential or agricultural farm residence.
2. A remediation fund or bond shall be posted for clean up of facility in the event of abandonment.
3. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.
4. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
5. Any other requirement deemed appropriate and necessary by the County or Village Board for the protection of the general health and welfare.
6. Special use permits granted under this section may be subject to annual review by the County or Village Board with written notice of hearing of such review given to permit holder at last known address.

In making any decision granting a special use permit, the County or Village Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.

6.4 LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS

Livestock confinement facilities/operations as defined by Section 3.45 shall only be allowed by special permit in the AG-1 and RC-1 under the following conditions:

1. Distance requirements: Any new or expanding livestock facilities/operation, as defined in Section 3.45, shall be a minimum distance from any residence, commercial or industrial facility, or church, school or any other facility operated and/or utilized by the general public other than the residence of the confinement facilities/operations owner and/or operator, unless a legally recorded easement to waive the distance requirement is signed by the residence(s), commercial or industrial facility, or church, school or any other facility operated and/or utilized by the general public inside the minimum distance requirement. Commercial/Industrial/residences that are inside the minimum distance requirements of the LCF at the time of adoption of these regulations are exempt from the distance requirements for the LCF setback of that facility size.
Expansion of an existing livestock facility/operation is defined as such when capacity of the facility is increased to the point where the total animal units is defined as a larger class. Expansion over the animal unit number as licensed by the Nebraska Department of Environmental Quality in a Confinement Facility D requires a special use permit. See minimum distance requirements in the following table.

MINIMUM DISTANCE REQUIREMENTS

	<u>Confinement Facility A</u>	<u>Confinement Facility B</u>	<u>Confinement Facility C</u>	<u>Confinement Facility D</u>
Total Animal Units Allowed (Section 3.45)	500 to 1,000	1,001 to 5,000	5,001 to 10,000	10,001 and Above
Minimum Distance Required	1 / 2 Mile	1 / 2 Mile	3 / 4 Mile	1 Mile

The Setback will be measured from the furthest protruding eve of the residence closest to the pen of the confined feeding operation.

2. Facility with a lagoon liquid waste management system located on a tract of land at least one-half (1/2) mile from any residence or commercial or industrial facility, or church or school, or any other facility operated and/or utilized by the general public other than the residence of the confinement facilities/operations owner and/or operator. However, the minimum distance may be increased as determined by the County. All lagoons existing inside the minimum distance requirements at the time of adoption of this regulation are exempt from the distance requirements.
3. Applicants must comply with all NDEQ, EPA and other licensing requirements after a special use permit is obtained.
4. Paunch waste disposal shall only be allowed in AG-1 District in conformance with a Special Use Permit process.
5. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health, safety and welfare of the residents of Kearney County.
6. All existing nonconforming structures and uses may be continued (are grandfathered) as long as they are lawful as of the date of this regulation and may be expanded through the special use permit.

ARTICLE 7

PARKING REGULATIONS

7.1 GENERAL PROVISIONS

1. All buildings and structures erected and all uses of land in all districts established after the effective date of this Regulation shall provide accessory parking and loading facilities as required under this section.
2. All off-street parking spaces required by this Regulation shall be located on the same lots as the use it serves.
3. Owners of two or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
4. All yard area including driveways, except the required front yard for residential uses may be used for off-street parking. Garages and driveways may be considered as off-street parking spaces.
5. A plan, drawn to scale, indicated how the off-street parking and loading requirements are to be met, shall accompany an application for a zoning permit. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

7.2 OFF-STREET PARKING REQUIREMENTS

At the time of construction, alteration or enlargement of a structure or building or change in the use of land, off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

	<u>Use</u>	<u>Minimum Number of Parking Spaces</u>
1.	Residential Single family, two-family dwelling	1 per dwelling unit
2.	Mobile Home Trailer Park	1 per trailer unit
3.	Hotel and Motel	1 per rental unit plus 1 for every 4 employees
4.	Hospitals, nursing homes, rest homes, or similar uses	1 for every 2 ½ patient beds and 1 for each staff and employee on the largest shift
5.	Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, etc.	1 per every four persons
6.	Bowling Alley	2 for each alley
7.	Retails sales department stores, restaurants, taverns, grocery stores, etc.	1 per 200 square feet of floor area as determined by exterior wall dimensions
8.	Professional office establishments	1 per 500 square feet of floor area as determined by exterior wall dimensions
9.	Manufacturing, wholesale warehouse and similar uses	1 for every 2 employees on the largest working shift

7.3 OFF-STREET LOADING REQUIREMENTS

At the time of construction, alteration or enlargement of any structure or building except residences and farms having an aggregate gross floor area of 500 square feet or more, off-street loading areas shall be provided and maintained for all uses as follows:

	<u>Number</u>	<u>Loading Area</u>	<u>Gross Floor Area</u>
<u>1.</u>	One	500 square feet	for every 5,000 to 20,000 square feet
<u>2.</u>	One	500 square feet	for every 20,000 square feet or fraction thereof

ARTICLE 8

ACCESSORY USES

8.1 ACCESSORY BUILDING

Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property, or the users thereof, and shall be on the premises of the main use.

Accessory buildings shall not occupy more than thirty (30) percent of the required area for the rear yard. Any accessory building shall have a minimum setback of three (3) feet and all garage entrances must have ten (10) feet from the access street or alley. Attached garages are considered part of principal building.

8.2 HOME OCCUPATIONS

An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

The following conditions and restrictions shall apply to such customary home occupations:

- a. The primary use of the building or structure in which the occupation is situated shall clearly be the dwelling used by the person as his private residence or an accessory building on that same property used by the owner of the property. **(5/04/04)**
- b. No equipment or machinery shall be used in such activities that is perceptible off the premises by reason of noise, smoke, odor, dust, radiation, electrical interference or vibration. Parking shall be handled in such a manner as to not impede or hinder traffic on any public right of way.

- 8.3 MANUFACTURED HOMES:** All manufactured homes located outside mobile home parks shall have upon it any required seal as set forth in Section 71-1555, et. seq., Revised Statutes of Nebraska.

8.4 YARD REGULATIONS:

8.41 FRONT YARDS: The front yards heretofore established shall be adjusted in the following cases:

Where forty (40) percent or more of the frontage on one side of a street between two intersecting streets is developed and the buildings on this side of a block have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings provided that no building shall be required to have a front yard setback of more than fifty (50) feet.

Where forty (40) percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the street than the nearest building on the block.

8.42 STRUCTURAL PROJECTIONS: The ordinary projections of chimneys and flues, buttresses, eaves, overhangs, open-unenclosed steps or stoops up to five (5) feet in height may extend into required yards for a distance of not more than two (2) feet in the required side yard and not more than five (5) feet in the required front yard.

8.5 EXCEPTIONS TO HEIGHT REGULATIONS: The height limitations contained in the permissible heights for the various district regulations shall not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy and agricultural structures.

8.6 EXCEPTIONS TO LOT SIZE REQUIREMENTS: If, at the time of passage of this article, a lot or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district.

8.7 RURAL RIGHT-OF-WAYS: All buildings and sight impairing or “solid” fences, walls and hedges shall have a minimum set back of twenty-five (25) feet measured from rural right-of-ways. Furthermore, all buildings, fences, walls, retaining walls, diversions, walkway structures or planting of trees, shrubbery, or similar uses are prohibited within the right-of-ways of rural roads or state and federal highways. Planting of shelter belts shall have a minimum set back of thirty (30) feet measured from the rural or highway right-of-way (front lot line or property line).

ARTICLE 9

COUNTY/VILLAGE BOARD OF ZONING ADJUSTMENT

9.1 CREATION, MEMBERSHIP

The County Board of Zoning Adjustment is hereby created and shall be known as the County Board of Zoning Adjustment. The members of said board shall be appointed by the County Board.

One (1) member only of said board shall be appointed from membership of the Planning Commission and the loss of membership on the Planning Commission by such member shall also result in the immediate loss of membership on the County Board of Zoning Adjustment.

Said Board shall consist of five (5) regular members, plus one (1) additional member designated as an alternate who shall attend and serve only when one (1) of the regular members is unable to attend for any reason, each to be appointed for a term of three (3) years and removable for cause by the County Board upon written charges and after public hearings. Vacancies shall be filled for the unexpired terms of any member whose terms becomes vacant. (Ref. 23-168.01 RS. Neb)

The Board of Trustees of each Village can serve as the Village Board of Zoning Adjustment.

9.2 MEETINGS

Meetings of the Board of Zoning Adjustment shall be held at the call of the chairperson and at such times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the County or Village Clerk and shall be a public record.

9.3 INTERPRETATIONS AND VARIANCES

9.31 The Board of Adjustment shall, subject to appropriate conditions and safeguards as specified in these regulations, have the following powers (Ref. 23-168.03 R.S. Neb.):

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or Planning Commission based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
2. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any maps, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass; and
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning Resolution, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these zoning regulations, but no such variance shall be authorized unless the Board finds that:
 - a. The strict application of the regulation would produce undue hardship;
 - b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

- c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
- d. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

9.32 No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonable practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

9.33 In exercising the above-mentioned powers such Board may, in conformity with the provisions of said sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as shall be proper, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

9.4 PROCEDURES FOR REQUESTING A VARIANCE

The procedures to be followed by the Board of Zoning Adjustment shall be as follows.

9.41 Appeals to the Board may be taken by any person aggrieved or by any officer, department, governmental agency affected by any decision of the zoning administrator. Such appeal shall be made within ten (10) days from the date of decision by any county officer or department. The appeal filed in writing shall define the appeal being requested and the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the Zoning Board of Adjustment all the paper constituting the record upon which the action appealed from was taken.

9.42 The chairperson of the Board shall set a hearing within thirty (30) days of receipt of the appeal. The time, date, place of the hearing, and description of the request shall be published in a local newspaper of general circulation ten (10) days prior to the actual hearing. The Board shall also notify the interested parties in the case of the hearing date, time and place.

9.5 APPEALS FROM THE BOARD OF ZONING ADJUSTMENT

Any person or persons, jointly or separately, aggrieved by any decision of the Board of Zoning Adjustment, or any officer, departments, board or bureau of the County, may seek review of such decision by the district court for the County in the manner provided by the laws of the State and particularly by Section 23-168.04 within 15 days of when the minutes are filed with the County Clerk.

ARTICLE 10

ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES

10.1 ENFORCEMENT

10.11 ZONING ADMINISTRATOR. This resolution shall be enforced and administered by a zoning administrator who shall be appointed by the County Board and who may be provided with the assistance of such other persons as the County Board may direct in order to carry out the following duties and responsibilities:

1. Approve and issue all Zoning Permits when compliance is made with this resolution.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this resolution.
3. Receive, file and forward to the County or Village Board of Zoning Adjustment the records in all appeals for variances.
4. Maintain permanent and current records of the Zoning Resolutions including but not limited to, all zoning maps, amendments, special use permits, variances, appeals and applications thereof and records of hearings thereon.
5. Prepare and have available in book, pamphlet or map for each year.
 - a. The compiled text of the Zoning Resolutions and amendments thereto, including all amendments adopted through the preceding twelve (12) months; and
 - b. A zoning map or maps, showing the zoning districts, divisions and classifications in effect on the preceding twelve (12) months.
6. Whenever the Zoning Administrator shall find that any of the provisions of this resolution have been or are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she may order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structures or additions or alterations thereto; discontinuance of any illegal work being done; or take any other appropriate action authorized by this resolution to insure compliance with, or to prevent violation of, its provisions.

10.2 ZONING PERMITS

10.21 GENERAL. No building or other structure shall be erected, moved, added to, or structurally altered without a zoning permit first having been issued by the Zoning Administrator. No zoning permit shall be issued unless the proposed construction or use is in conformance with all of the provisions of this resolution and with all other applicable codes, regulations and laws of Kearney County and with all orders, and variances lawfully issued by the Board of Adjustment.

10.22 APPLICATION FOR ZONING PERMIT. All applications for a zoning permit shall be accompanied by a plot plan showing the location, ground area, height and bulk of all present and proposed structures, additions, parking areas and site improvements; the actual dimensions and shape of the lot lines; the uses to be built upon; the building lines in proposed structures or additions; and any other reasonable and pertinent information as may be required by the Zoning Administrator or the proper enforcement of this resolution.

10.23 APPROVAL OR DISAPPROVAL OF PERMIT. The Zoning Administrator shall examine all applications for zoning permits, including plans, specifications and documents filed therewith and shall either approve or disapprove such application within thirty (30) days of receipt of same. Upon approval and receipt of required fees, the Zoning Administrator shall promptly issue the zoning permit and shall affix his/her signature to the permit and the plans and mark the plans "Approved." Upon disapproval of the application, the Zoning Administrator shall refuse to issue the permit and shall state in writing on the plans the reasons for disapproval, affix his/her signature and mark the plans "Disapproved."

10.24 APPEAL FROM APPROVAL OR DISAPPROVAL. An appeal from approval or disapproval of any Application shall be made to the Board of Adjustment in writing within ten (10) days after the Planning Commission hears the application.

10.3 FORM OF PETITIONS, APPLICATIONS AND APPEALS

10.31 A verbal decision by the Zoning Administrator except in the cases of building, occupancy shall be the primary instrument for administering compliance with this resolution.

10.4 SCHEDULE OF FEES

10.41 The schedule of fees shall be established for this Zoning Resolutions to cover costs of administration by the County Board.

The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the County Board. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

ARTICLE 11 AMENDMENT

11.1 GENERAL

The County or Village Board may from time to time supplement, change or generally revise the boundaries or regulations contained in this resolution amendment. A proposal for such amendment may be initiated by the County or Village Board, Planning Commission or upon application of the owner of the property affected. A filing fee established by the County or Village Board is required for each application to be considered by the Planning Commission.

11.2 SUBMISSION TO PLANNING COMMISSION

All such proposed amendments shall first be submitted to the Planning Commission for recommendation and report. Upon the development of tentative recommendations, the Planning Commission shall hold a public hearing thereon and shall cause an accurate written summary to be made of proceedings, and shall give notice in like manner as that required for the original zoning recommendations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary of any district.

If such proposed amendment is not a general revision of an existing provision of this resolution, and will affect specific property, it shall be designated by legal description and general street location and in addition to such publication notice, written notice of such proposed amendment shall be mailed to all owners of lands located within three hundred (300) feet of the area proposed to be altered in incorporated areas and one (1) mile in unincorporated areas and an opportunity granted to interested parties to be heard.

11.3 AMENDMENT CONSIDERATION AND ADOPTION

The procedure for the consideration and adoption of any such proposed amendments shall be in like manner as that required for the consideration and adoption of the resolution except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half (½) of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the County or Village Board, if it approves such recommendation, may either adopt such recommendation by resolution or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the County or Village Board may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the County or Village Board disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval, and such recommendation shall be considered in like manner as that required for the original recommendation returned to the Planning Commission. If such amendment shall affect the boundaries of any district, the resolution shall define the change or the boundary as amended, shall order the Official Zoning Map(s) to be changed to reflect such amendment, and shall amend the section of the resolution incorporating the same and reincorporate such Map as amended.

11.4 PROTEST

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the County or Village Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one

hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the County or Village Board.

ARTICLE 12

COMPLAINTS, PENALTIES, REMEDIES

12.1 COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He/she shall record properly such complaint, immediately investigate, and take action thereon as provided by this resolution.

12.2 PENALTIES

The owner or agent of a building or premises in or upon which a violation of any provisions of this resolution has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a Class V misdemeanor. Each and every day that such violation continues after notification shall constitute a separate offense.

Nothing herein contained shall prevent the County or Village from taking such other lawful action as is necessary to prevent or remedy any violation.

12.3 REMEDIES

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used in violation of this resolution the appropriate authorities of the County or Village may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE 13

LEGAL STATUS PROVISIONS

13.1 SEPARABILITY

Should any article, section or provisions of this resolution be declared by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of this resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

13.2 PURPOSE OF CATCH HEADS

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this resolution.

13.3 REPEAL OF CONFLICTING RESOLUTIONS

All other resolutions and regulations in conflict with this resolution are hereby repealed to the extent necessary to give this resolution full force and effect.

13.4 EFFECT DATE

This resolution shall take effect and be in force from and after its passage and publication according to law.

Article 14

KEARNEY COUNTY AIRPORT ZONING REGULATIONS

14.1 LOCATION, BOUNDARIES, ZONES AND HEIGHT RESTRICTIONS.

Subdivision 1. Hazard Area Description.

The Hazard Area consists of Operation Zones, Approach Zones Turning Zones and Transition Zones. The outer boundary of the Hazard Area is a horizontal distance of three (3) statute miles from the existing airport property line.

Subdivision 2. Zoning Descriptions

- A. The Operation Zone is longitudinally centered on each existing runway.
 - 1. Length. For paved runways, the operations zone begins and ends 200 feet beyond each runway end. For turf runways, the operation zone begins and ends at the runway ends.
 - 2. Width. For instrument runways, the operation zone is 1,000 feet wide. For all other runways, the operation zone is 500 feet wide.
 - 3. Height. The height of the operation zone is the same as the height of the runway or surface of the ground.
- B. The Approach Zone extends from the end of each operation zone and is centered along the extended runway centerline. The zones' dimensions are:
 - 1. Visual Runways
 - a. Length and Width. The approach zone extends 6,000 feet from the operation zone, measured along the extended runway centerline. The approach zone is 500 feet wide at the end nearest the runway and 1,700 feet wide at the far end.
 - b. Height. The approach zone begins at the elevation of the operation zone and rises one (1) foot vertically for every 40 feet horizontally (40:1). Thus, the elevation of the far end is 150 feet above the operations zone.
- C. The Transition Zones extends outward at right angles to the runway centerline and upward at a rate of one (1) foot vertically for every seven (7) feet horizontally (7:1). This zone begins at the edge of the Operation Zones and the Approach Zones. This zone ends when it reaches a height of 150 feet above the airport elevation.
- D. The Turning Zone is all portions of the Hazard Area not contained in the Operation Zones, Approach Zones, or Transition Zones. The outer limits of the Turning Zones shall be a horizontal distance of three (3) statute miles the existing property line. The Turning Zone has a height limit of 150 feet.

Subdivision 3. Height Restriction.

No building, transmission line, pole, tower, chimney, wires or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object or natural growth be allowed to grow, above the height described in above in Subdivision 2.

14.2 LOCATION SKETCH AND ZONING MAP.

The boundaries, operation zones, approach zones, transition zones, and turning zones of the airport are indicated on the Zoning Map that accompanies and is hereby made a part of these regulations. A copy of the zoning shall at all times be on file in the office of the Kearney County Zoning Committee, Kearney County, Nebraska.

14.3 PERMIT REQUIRED AND EXCEPTIONS.

Subdivision 1. Permit Required.

It shall hereafter be unlawful to erect, construct, reconstruct, repair, or establish any building, transmission line, pole, tower, chimney, wires or any other structure or appurtenance within the Hazard Area without first obtaining a "permit" from the Administrative Agency. It shall also be unlawful to plant or replant any tree or other Object of natural growth without the necessary "permit".

Subdivision 2. Exception.

Within the Turning Zones, no permit shall be required for any construction or Planting that is not higher than seventy-five (75) feet above the airport elevation.

Subdivision 3. Decommission Clause

Permit will have a decommission clause established for removal and cleanup of Non-use or abandoned structure.

14.4 NON-CONFORMING STRUCTURES

Within the hazard area, no non-conforming building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character or object of natural growth shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow to a height above the heights permitted by these regulations, if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of 80 percent or more of their original condition, or abandoned for a period of twelve months or more. Transmission lines and communication lines shall be interpreted as all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the regulated zone.

14.5 MARKING OF NON-CONFORMING STRUCTURES.

Whenever the Administrative Agency determines that a specific structure or object exceeds the height restrictions and existed prior to the enactment of these regulations, the owner (s) and the lessor(s) of the premises on which the structure or object is located shall be notified in writing by the Administrative Agency. The owner (s) and lessor (s) shall within one year of the adoption of this regulation, have marking and lighting of the structure or object. The Administrative Agency shall specify the required marking and lighting, based on the recommendations of the Nebraska Department of Aeronautics. The cost of marking or lighting shall not be assessed against the owner or lessor of said premise.

Subdivision 1. Lighting.

Red flashing lights during nighttime and strobes during daylight hours, on all

Structures 75 ft. AGL (Above Ground Level) or higher, no exceptions.

14.6 STRUCTURE LOCATIONS.

- A. Encourage the use or co-use of existing structure when possible.
 - 1. Provide letter of denial for use of existing structures.
- B. Encourage structure locations into patterns or corridors when possible.

14.7 PRIVATE AIRPORT PROTECTION.

The Kearney County Airport Zoning Commission suggest that these guidelines be put in the place to protect private airports in Kearney County Nebraska that are “registered” with the Nebraska Department of Aeronautics.

14.8 VARIANCES

Variances for the land owner or owners and others for the established requirements can be obtained from the County Board of Adjustment for approval.